



NASA Policy Directive

NPD 3310.1A

Effective Date: August 22, 2001

Expiration Date: August 22, 2006

COMPLIANCE IS MANDATORY[Printable Format \(PDF\)](#)

Subject: Distinguishing Between Contractor and Civil Service Functions

Responsible Office: Office of Human Capital Management

1. Policy

This policy provides guidance on the appropriate use of civil service personnel and service contractors.

a. NASA will employ civil service personnel for those scientific, engineering, technical, policy, management, and administrative functions which are inherently governmental. The use of contracts for performance of inherently governmental functions is prohibited. Office of Federal Procurement Policy Letter 92-1, dated September 23, 1992, articulates relevant considerations to apply in determining whether specific functions are, as a matter of policy, inherently governmental and provides illustrative examples of contracting situations in which the services sought are inherently governmental functions.

b. In those situations where contractors closely support the performance of inherently governmental functions, special control measures are advised. Examples of control measures that may be employed are developing performance based statements of work and quality control plans that measure contractor performance; establishing audit plans for periodic review of contracts; and physically separating contractor personnel from Government personnel. In addition, consideration should be given to clearly differentiating contractor personnel by use of different colored badges, special identifiers in telephone directories, identifying company affiliation when answering the phone, or company identifiers on e-mail addresses. Office of Federal Procurement Policy Letter 92-1, dated September 23, 1992, also provides examples of activities that are not normally considered to be inherently governmental functions but may approach being in that category if contracts are not carefully implemented and administered to ensure that the Agency can maintain proper controls.

c. NASA will ensure that improper employer/employee relationships between civil service personnel and service contractors (e.g., unauthorized personal services contracts) do not develop in the administration and implementation of nonpersonal-service contracts. Proper contract administration is critical in situations in which an employer/employee relationship may develop because contractor employees are collocated with NASA employees and support the same organization. In addition, NASA will, to the maximum extent possible, obtain services by means of performance based service contracts which require minimal technical direction from NASA personnel.

d. In situations where it is determined that contractor personnel are needed to assist in the evaluation of proposals, the procedures set out in the Federal Acquisition Regulations (FAR) Subpart 37.2 and NASA FAR Supplement 1815.207-71 shall be followed.

e. The NASA civil service workforce will maintain the expertise to independently evaluate contractor performance including approaches, methodologies, options, results, recommendations, or conclusions.

2. Applicability

This NPD applies to NASA Headquarters and NASA Centers, including Component Facilities, with the exception of the Office of the Inspector General.

3. Authority

42 U.S.C. 2473(c)(1), Sec 203(c)(1), "National Aeronautics and Space Act of 1958." (URL-
<http://www.hq.nasa.gov/office/pao/History/amendact.html>)

4. Reference

- a. 5 U.S.C. 2105, Chapter 21, Definition of Employee. (URL- <http://www4.law.cornell.edu/uscode/5/2105.html>)
- b. Federal Acquisition Regulations, Part 37, subpart 7.5, and NASA FAR Supplement, Part 1837, "Service Contracting," and Section 1815.207-71, "Disclosure and Use of Information before Award." (URL- <http://www.arnet.gov/far/loadmain.html>) and (URL-<http://www.hq.nasa.gov/office/procurement/regs/nfstocB.doc>) respectively
- c. 5 CFR Part 210, "Basic Concepts and Definitions." (URL- http://www.access.gpo.gov/nara/cfr/waisidx_01/5cfr210_01.html)
- d. Office of Federal Procurement Policy Letter 92-1, "Inherently Government Functions," dated September 23, 1992. (URL- <http://www.arnet.gov/Library/OFPP/PolicyLetters/Letters/PL92-1.html>)
- e. Federal Acquisition Regulations, Part 11, subpart 106, Purchase Descriptions for Service Contracts. (URL- <http://www.arnet.gov/far/loadmain.html>)
- f. Title 5, Code of Federal Regulations, Part 300, Subpart E., Use of Private Sector Temporaries. (URL- <http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200105>)
- g. Equal Employment Opportunity Commission (EEOC) Enforcement Guidance Notice No. 915.002, Application of Equal Employment Opportunity Laws to Contingent Workers Placed by Temporary Employment Agencies and Other Staffing Firms. (Dec 3, 1997) (URL- <http://www.eeoc.gov/docs/conting.html>)

5. Responsibility

- a. The Assistant Administrator for Human Resources and the Assistant Administrator for Procurement have the functional responsibility for issuing NASA policy regarding the use of civil service personnel or service contractors respectively.
- b. Officials-in-Charge of Headquarters Offices and Center Directors will ensure that managers and supervisors under their authority are aware of this policy and the accompanying references.
- c. Officials-in-Charge of Headquarters Offices and Center Directors are responsible for the implementation of and compliance with this policy.
- d. Any planned acquisition which would entail contractor performance of functions similar to those referenced in paragraph 1.b. of this policy statement shall be reviewed and approved by the responsible Center Director or, for Headquarters, by the Assistant Administrator for Institutional and Corporate Management, prior to the issuance of any Request for Proposals for services.

6. Delegation of Authority

None.

7. Measurements

None.

8. Cancellation

NPD 3310.1, dated December 10, 1997

/s/ Daniel S. Goldin
Administrator

Attachment A: (Text)

(URL for Graphic)

DISTRIBUTION:

NODIS

This Document Is Uncontrolled When Printed.

Check the NASA Online Directives Information System (NODIS) Library
to Verify that this is the correct version before use: <http://nodis3.gsfc.nasa.gov>
